

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

BLONDER et al.

Serial No.: 09/888,235

Conf. No.: 8106

Filed: June 22, 2001

Atty. File No.: 42830-00234

For: "DELIVERY VEHICLE COMPOSITION
AND METHODS FOR DELIVERING
ANTIGENS AND OTHER DRUGS"

) Group Art Unit: 1648

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) Examiner: Li, Bao Q.

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) APPLICATION FOR
) RECONSIDERATION OF PATENT
) TERM ADJUSTMENT UNDER
) 37 C.F.R. §1.705(b)

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VIA ELECTRONIC SUBMISSION

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir or Madam:

Reconsideration of the patent term adjustment indicated in the Notice of Allowance mailed on January 7, 2010 in the above-captioned application is hereby requested under 37 C.F.R. § 1.705(b). Accompanying this application for reconsideration of patent term adjustment is the filing fee of \$200.00 as set for the 37 C.F.R. §1.18(e).

The correct patent term adjustment is 1,489 days, including 37 days of delay under 37 C.F.R. §1.702(a)(2), 1,695 days of delay under §1.702(e), and 243 days of reduction under §1.704(b), calculated as shown in the following table.

Actions	Relevant Dates as Specified in §1.703	§1.702(a) Delay	§1.702(e) Delay	§1.704(b) Reduction	Correct patent term adjustment
Patent Office Delay					
Response	10/28/2003				
Start of Delay Period	2/29/2004				
Office Action	4/5/2004	37 days			
Notice of Appeal	4/21/2005				
Reversal on Appeal	12/11/2009		1,695 days		
Reductions					
Office Action	10/22/2002				
Start of Delay Period	1/23/2003				
Response	4/28/2003			(96 days)	
Office Action	7/15/2003				
Start of Delay Period	10/16/2003				
Response	10/28/2003			(13 days)	
Office Action	4/5/2004				
Start of Delay Period	7/6/2004				
Response	8/10/2004			(36 days)	
Office Action	11/16/2004				
Start of Delay Period	2/17/2005				
Response	4/21/2005			(64 days)	
Office Action	6/27/2005				
Start of Delay Period	9/28/2005				
Response	10/31/2005			(34 days)	
Total		37 days	1,695 days	(243 days)	1,489 days

No terminal disclaimer was filed in this application.

It is submitted the Office Action issued by the United States Patent and Trademark Office (USPTO) on 1/28/2004 should not be considered as a response to a reply under 35 U.S.C. §132, pursuant to §1.702(a)(2), because that Office Action was deficient and was expressly vacated in a new Office Action issued 4/5/2004. See, the 4/5/2004 Office Action and accompanying Interview Summary.

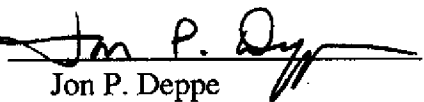
It is submitted the Notice of Appeal filed 8/23/2005 should not be considered as the beginning of the appeal period under §1.703(e) for purposes of the adjustment under §1.702(e) because that Notice of Appeal was filed only to maintain a previously filed appeal following issuance by the Examiner of an Office Action while the application was on appeal and which was not responded to. The period of delay due to appeal under §1.702(e) should, therefore, be measured from the original Notice of Appeal filed on 4/21/2005.

Please issue a patent term adjustment on this application of 1,489 days, assuming the issue fee is paid on the date that is three months after the mailing date of the notice of allowance and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of the notice of allowance.

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

Date: Feb. 22, 2010

By: 
Jon P. Deppe
Registration No. 65,196
8055 E. Tufts Avenue, Suite 450
Denver, Colorado 80237
Phone: (303) 770-0051
Fax: (303) 770-0152